

**BODKIN | NIEHAUS | DORRIS | JOLLEY PLLC**

Appellate | Business | Estate Planning Tax | Regulatory | White Collar

Attorneys and Counselors

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SCOTT BODKIN  
SCOTT@BNDJLEGAL.COM

JASON EDWARD NIEHAUS  
JASON@BNDJLEGAL.COM

MARGO DORRIS  
MARGO@BNDJLEGAL.COM

R. RENEE JOLLEY  
RENEE@BNDJLEGAL.COM

Flower Mound Office  
6021 Morriss Rd., Ste. 111  
Flower Mound, TX 75028  
Phone: (972) 704-1368  
Fax: (888) 314-7695

Denton Office  
207 W. Hickory St., Ste. 309  
Denton, TX 76201  
Phone: (940) 600-1295  
Fax: (888) 314-7695

Dallas Office  
10440 N. Central Expy, Ste. 800  
Dallas, TX 75231  
Phone: (214) 540-7999  
Fax: (888) 314-7695

**BY APPOINTMENT ONLY**

Deana Williamson  
Clerk of the Court  
Texas Court of Criminal Appeals  
201 West 14th St, Room 106  
Austin, Texas 78701

RE: Ralph D. Watkins v. State of Texas, PD-1015-18

Dear Ms. Williamson:

On March 7, 2019, the State filed post-submission letter brief following oral argument on February 20, 2019. This letter serves as my response.

The State simultaneously takes the position that the Michael Morton Act did not change the law, and that the Act overturned almost sixty years of *Brady* precedent. This conflicts with the State Prosecuting Attorney's office. See Br. of Amicus State Prosecuting Attorney at 9 (Urging court to continue using *Brady* as metric). Of course, that brief is in direct conflict with the brief the State Prosecuting Attorney's office filed in the 10<sup>th</sup> Court of Appeals. *Compare* Br. of Amicus State Prosecuting Attorney at 8 – 13 (*Brady* incorporated into act, urging reliance on *stare decisis*) with Br. of St. Pros. Atty. at 10 – 20, *Watkins v. State*, 554 S.W.3d 819 (Tex. App – Waco 2018)(No. 10-16-00377-CR) located at ROA<sup>1</sup> 1281 – 1292)(Act is not a codification of *Brady*).

Disregarding sixty years of *Brady* precedent is both unnecessary to disposition of this case and, to the extent that it would create unnecessary discrepancies with multiple United States Supreme Court decisions, unwise. Counsel stands by his proposed interpretation in his opening merits brief and waives further response.

Respectfully submitted,

/s/ J. Edward Niehaus  
**Jason Edward Niehaus**

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<sup>1</sup> ROA is Record On Appeal, the consolidated record in this Court

Bodkin, Niehaus, Dorris & Jolley, PLLC  
207 W. Hickory St. Suite 309  
Denton, Texas 76201  
PHONE: (972) 704-1368  
FAX: (888) 314-7695  
[JASON@BNDJLEGAL.COM](mailto:JASON@BNDJLEGAL.COM)

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing letter regarding response to the State's post-submission briefing was served upon the attorney for the State, the State Prosecuting Attorney's Office, and TDCLA via electronic filing on Monday, March 11, 2019

/s/ J. Edward Niehaus  
Jason Edward Niehaus